

**HUMAN SERVICES DEPARTMENT[441]**

**Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 249A.4 and 2011 Iowa Acts, House File 649, section 6(6), the Department of Human Services amends Chapter 78, “Amount, Duration and Scope of Medical and Remedial Services,” Iowa Administrative Code.

This amendment removes the remaining exclusions from Medicaid coverage for drugs to promote cessation of smoking. Public Law 111-148, the Patient Protection and Affordable Care Act, mandates coverage of smoking cessation products for pregnant women by October 1, 2010, and for all Medicaid members by January 1, 2014. State Medicaid Director Letter 11-007, published June 24, 2011, clarified that all smoking cessation products (legend and over-the-counter) must be covered. Currently, Iowa does not cover legend nicotine nasal spray and oral inhaler products. Because of the limited cost expected, the Department has decided to expand coverage for all members at this time for ease of administration.

The Council on Human Services adopted this amendment on October 12, 2011.

The Department finds that notice and public participation are impracticable because, under federal law, this policy should already be in place. 2011 Iowa Acts, House File 649, section 6(6), allows the Department to file emergency rules if necessary to comply with federal requirements. Therefore, this amendment is filed pursuant to Iowa Code section 17A.4(3).

The Department finds that this amendment confers a benefit on Medicaid members by expanding coverage of drugs for smoking cessation. Therefore, this amendment is filed pursuant to Iowa Code section 17A.5(2)“b”(2), and the normal effective date of the amendment is waived.

This amendment is also published herein under Notice of Intended Action as **ARC 9835B** to allow for public comment.

This amendment does not provide for waivers in specified situations since it expands Medicaid coverage.

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement Iowa Code section 249A.4 and Sections 4107 and 2502 of Public Law 111-148.

This amendment became effective November 1, 2011.

The following amendment is adopted.

Rescind and reserve subparagraph **78.2(4)“b”(4)**.

[Filed Emergency 10/13/11, effective 11/1/11]

[Published 11/2/11]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 11/2/11.